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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/484,140	01/18/2000	Jim Beck III	00EC004/77529	9326

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EXAMINER
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OPSASNICK, MICHAEL N

ART UNIT	PAPER NUMBER
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2626

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/22/2006	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

09/484,140

Applicant(s)

BECK, JIM

Examiner

Michael N. Opsasnick

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-8 and 10-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-8,10-13 and 15-32 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Allowable Subject Matter***

1. Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: As per claim 14, the particular structure pertaining to certain greetings, in conjunction with language determination corresponding to that particular greeting, is not explicitly taught by the prior art of record.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1,2,4-8,10-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (5999965) in view of Lennig et al (5479488) in further view of Sabourin et al (6912499) in view of Gillick et al (6029124) in further view of Eisdorfer et al (5475733).

As per claims 1,7,13,14,19,20,25, Kelly (5999965) teaches an ACD (col. 3 lines 40-50) detecting and routing calls (col. 12 lines 25-55), with optional voice input (col. 5 lines 58-62). Kelly also teaches call distribution based on the language of the call (col. 12 lines 50-55). Kelly (5999965) does not go into the specifics of the call routing based on language. Lennig et al (5479488) teaches a call distributor comprising detecting a call (col. 4 line 13 – col. 5 line 14), sampling an audio greeting of the call (col. 6 lines 19-43), using lexemes based on language, location, and business name based upon the input from the user after prompting (col. 5 lines 53-61 → the user's first response can be considered to be the 'initial', or first response of the user), and fitting a plurality of audio templates to the sampled greeting of the call (as comparing and calculating probabilities in the comparison process -- figs 3a,3b; col. 6 lines 35-42, col. 8 line 10 – col. 10 line 35). Lennig et al (5479488) teaches language determination during the call processing (col. 6 lines 1-18, Fig. 3a, subblocks 302-308). Therefore, it would have been obvious to one of ordinary skill in the art of call processing to modify the teachings of Kelly (5999965) with audio call sampling because it would advantageously note call features that could be added to the caller's profile (Lennig, figs 3, col. 8 line 10 – col. 10 line 35). The combination of Kelly (5999965) in view of Lennig et al (5479488) teaches using the user input which does not preclude the response to be an "unprompted initial greeting", ( Lennig et al (5479488) does not come out forthright and label the type of input as 'an initial greeting'), however, Sabourin et al (6912499) teaches the use of multilingual speech models (Sabourin et al (6912499), col. 2 lines 30-50), in order to remove the step of prompting the user to input the language of choice (Sabourin et al (6912499), col. 1 lines 55-65). Therefore, it would have been obvious to one of ordinary skill in the art of speech processing at the time the invention was

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made to modify the combination of Kelly (5999965) in view of Lennig et al (5479488) to incorporate the multilingual word models of Sabourin et al (6912499) because it would advantageously provide for multilingual recognition without having to query the user as to what language is desired (col. 1 lines 55-65) as well as leading to a less complicated speech modeling (Col. 2 lines 38-48). The combination of Kelly (5999965) in view of Lennig et al (5479488) in further view of Sabourin et al (6912499) does not explicitly teach call routing for an outdialed call, however, Frey et al (6535596) teaches call routing based on the desired language (col. 12 lines 10-18), wherein the type of language is based upon the called party's preference (i.e., an outdialed/outbound call – col. 12 lines 17-19). Therefore, it would have been obvious to one of ordinary skill in the art of call processing to modify the combination of Kelly (5999965) in view of Lennig et al (5479488) in further view of Sabourin et al (6912499) with language based outdialed distribution because it would advantageously accommodate the preferences of the called party (Frey, col. 12 lines 17-20; which would be beneficial in a telemarketing type of call). The combination of Kelly (5999965) in view of Lennig et al (5479488) in further view of Sabourin et al (6912499) in further view of Frey et al (6535596) teaches customer based language selection (Lennig et al (5479488)), and not based upon speech recognition. However, Gillick et al (6029124) teaches a language selection technique based upon recognized input speech (col. 19 lines 30-41). Therefore, it would have been obvious to one of ordinary skill in the art of language selection to modify the teachings of combination of Kelly (5999965) in view of Lennig et al (5479488) in further view of Frey et al (6535596) with automated speech recognized based language selection because it would advantageously provide an improved performance in the automated recognition aspect of the system (Gillick, col. 7 lines 36-52).

The combination of Kelly (5999965) in view of Lennig et al (5479488) in further view of Sabourin et al (6912499) in further view of Frey et al (6535596) in view of Gillick et al (6029124) teaches an ACD performing automatic language recognition and routing the call based on language, but does not explicitly teach routing the call to an agent based upon the language of the call, however, Eisdorfer et al (5475733) teaches identifying the language of the user and routing to the call agent associated with that language (Fig. 2, col. 2 lines 20-30). Therefore, it would have been obvious to one of ordinary skill in the art of call routing to adapt the combination of Kelly (5999965) in view of Lennig et al (5479488) in further view of Sabourin et al (6912499) in further view of Frey et al (6535596) in view of Gillick et al (6029124) with language based call routing to an agent because it would adapt their system for multilingual support, as well as efficiently using communication assistant resources (Eisdorfer, col. 2 lines 4-12).

As per claims 2,8,26,27 Gillick teaches audio language templates (col. 7 lines 40-49).

As per claims 4,10, Lennig et al (5479488) teaches operator agent selection (fig. 3b, subblocks 322-324).

As per claims 5,11, Lennig et al (5479488) teaches default branching to the operator when language and recognition is not clarified (fig. 3b, subblocks 322,324).

As per claims 6,12, Gillick teaches multiple language stored samples (col. 19 lines 35-40).

As per claims 15,21,28 Lennig et al teaches recognizing the user as a repeat customer and accessing information about the repeat user (col. 4 lines 47-49, wherein the stored information about a customer implies a repeat user, ani – col. 5 lines 10-14, and the language (col. 5 lines 5-10)). (Kelly also teaches routing based ani -- col. 3 lines 45-50).

As per claims 16, 22, Lennig et al teaches storing an associated name of the user (col. 4 lines 45-50, referring back to col. 3 lines 49-53).

As per claims 17,23,31,32 Lennig et al teaches marketing information with the customer (col. 4 lines 56-60 -- lennig teaches billing data, which monitors usage and sales numbers -- which is component of marketing data).

As per claims 18,24,29,30 Lennig et al teaches determining based on localities (col. 10 line 63 – col. 11 line 4).

As per claims 29 and 30, Kelly (5999965) teaches name and geographic locations information (col. 3 lines 50-65).

***Response to Arguments***

4. Applicant's arguments filed 3/30/06 have been fully considered are moot in view of the new grounds of rejection. Examiner notes the introduction of the Sabourin et al (6912499) reference to address the issue of "unprompted initial greeting" as presented in the amendment to the claims. Examiner also notes that in each combination of the references, the motivation to combine the references has come from the references themselves, and not from "hindsight" reasoning..

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.



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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Opsasnick, telephone number (571)272-7623, who is available Tuesday-Thursday, 9am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Richemond Dorvil, can be reached at (571)272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*M.M. Opsasnick*

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